

Service Date: August 10, 1994

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	
of PACIFICORP for Authority to)	UTILITY DIVISION
Issue and Sell Debt and No Par)	DOCKET NO. 94.7.27
Serial Preferred Stock in an)	DEFAULT ORDER NO. 5797
Amount Not to Exceed)	
\$150,000,000.)	

On June 1, 1993, PacifiCorp (Applicant, PP&L) a corporation organized and existing under and by virtue of the laws of the State of Oregon and qualified to transact business in Montana, filed with the Montana Public Service Commission its verified application, pursuant to §§ 69-3-501 through 69-3-507, MCA, requesting an order authorizing the Company to issue and sell, in one or more offerings, not later than December 31, 1994, (i) not more than \$150,000,000 of units (Purchase Units) consisting of fixed-rate unsecured debt and contracts to purchase fixed-rate No Par Serial Preferred Stock, or (ii) shares of its fixed-rate No Par Serial Preferred Stock, or (iii) a combination of Purchase Units and shares of No Par Serial Preferred Stock, provided that the aggregate preference on involuntary liquidation of the Preferred Stock issued or issuable hereunder not exceed \$150,000,000. On June 15, 1993, the Commission issued Default Order No. 5710 approving PacifiCorp's request.

On March 14, 1994, PacifiCorp filed an amending application requesting deletion of the authority to issue Purchase Units granted in Default Order No. 5710, and substituting for it authority to borrow certain funds, to guaranty certain obligations and to assume certain liabilities, all in connection with a proposed issuance of fixed-rate preferred stock or equivalent by a newly created special purpose subsidiary (SPC). On March 29, 1994, the Commission granted PacifiCorp's request in

Docket No. 94.3.13, Default Order No. 5780.

On June 6, 1994, PacifiCorp filed an amendment to the authority granted in Docket No. 94.3.13 to provide for (1) the issuance of adjustable rate preferred stock either directly by PacifiCorp, indirectly through a SPC, or a combination thereof and (2) the issuance of unsecured debt by PacifiCorp to the holders of the SPC's preferred stock or its equivalent in exchange for such stock or equivalent under certain circumstances. Additionally, PacifiCorp requested that the authorities be extended to December 31, 1995. On June 21, 1994, the Commission granted PacifiCorp's request in Docket No. 94.6.23, Default Order No. 5792.

On July 18, 1994, PacifiCorp filed a further amendment in the named matter requesting authority to issue and sell its subordinated debt directly to investors without involving an SPC.

The application is supported by exhibits and data in accordance with the rules and regulations of the Commission governing the authorization of the issuance of securities by electric and gas utility companies operating within Montana.

For detailed information with respect to the general character of PP&L's business and the territories served by it, reference is made to its annual reports on file with the Commission.

The application sets forth Counsel who will pass upon the legality of the proposed issuance, the other regulatory authorizations required, and the propriety of the proposed issue.

At a regular open session of the Montana Public Service Commission held in its offices at 1701 Prospect Avenue, Helena, Montana, on August 8, 1994, there came before the Commission for final action the matters and things in Docket No. 94.7.27, and the Commission, having fully considered the application and all the data and records pertaining to it on file with the Commission and being fully advised in the premises, makes the following:

FINDINGS

1. PacifiCorp is a corporation organized and existing under and by virtue of the laws of the State of Oregon and is qualified to transact business in the State of Montana.
2. PP&L is operating as a public utility as defined in §69-3-101, MCA, and is engaged in furnishing electric service in Montana.
3. PacifiCorp was incorporated under Oregon law in August 1987 for the purpose of facilitating consummation of a merger with Utah Power & Light Company, a Utah corporation, and changing the state of incorporation of PacifiCorp from Maine to Oregon. PacifiCorp uses the assumed business names of Pacific Power & Light Company and Utah Power & Light Company within their respective service territories located in the states of California, Idaho, Montana, Oregon, Utah, Washington and Wyoming.
4. The Commission has jurisdiction over the subject matter of the application under § 69-3-102, MCA.
5. Notice of the application was published as a part of the Commission's regular weekly agenda.
6. PacifiCorp proposes, from time to time not later than December 31, 1995, (i) to issue and sell shares of fixed or floating rate No Par Serial Preferred Stock provided that the aggregate preference upon involuntary liquidation of said preferred stock not exceed \$150,000,000, (ii) to borrow not to exceed \$190,000,000 in the form of subordinated debt, guarantee obligations and assume liabilities, all in connection with the issuance by an SPC (including a corporation, partnership or limited liability company) of not to exceed \$150,000,000 of fixed or floating rate preferred stock or its equivalent, substantially in accordance with the terms set forth in PacifiCorp's amended application, including the provision for distribution of an equal principal amount of such subordinated debt for the securities issued and sold by the SPC in certain circumstances, (iii) to issue and sell not to exceed \$150,000,000 of its

fixed or floating rate subordinated debt otherwise than to an SPC, or (iv) to exercise all such authorities provided that the aggregate preference on involuntary liquidation of any preferred stock issued by PacifiCorp and any preferred stock or equivalent issued by an SPC and the aggregate principal amount of subordinated debt sold otherwise than to an SPC not exceed \$150,000,000.

7. In its amended application, PacifiCorp proposes to issue its subordinated debt directly to investors without involving an SPC. Bankers have advised PacifiCorp that the terms and pricing of such transaction would be similar to those described in PacifiCorp's previous applications in this matter. In addition, PacifiCorp believes that the issuance of subordinated debt directly rather than in connection with the issuance of preferred securities by the SPC may reduce the risk of loss of the interest deduction. The terms of the subordinated debt would include: interest deferral provisions; subordination provisions deeply subordinating the debt to PacifiCorp's senior debt securities, thereby causing the debt to have a rating equal to PacifiCorp's preferred stock; provisions permitting PacifiCorp to call the debt securities at par after five years; and a long-dated maturity. Based upon these features, the rating agencies have indicated that they would treat the debt in a manner equivalent to the structures previously described in this docket. PacifiCorp believes that the ability to issue subordinated debt directly will enhance PacifiCorp's flexibility in meeting investor demand, while continuing to enable PacifiCorp to achieve low cost preferred equity treatment.

8. All other terms and conditions of Docket Nos. 93.6.21, 94.3.13 and 94.6.23 remain the same.

9. The net proceeds of the issuances will be used to acquire utility property, to construct, extend or improve its facilities, to improve or maintain its service or to reimburse its treasury for funds expended from income and from other treasury funds that were not derived from the issuance of securities and were used for the foregoing purposes (other than for maintenance of service or replacements). The expenditures to be reimbursed were made for a utility purpose. See §69-3-501

MCA. To the extent that the funds to be reimbursed were used for the discharge or refunding of obligations, those obligations or their precedents were originally incurred in furtherance of a utility purpose.

10. The proposed issuances are part of an overall plan to finance the cost of PacifiCorp's facilities taking into consideration prudent capital ratios, earnings coverage tests and market uncertainties as to the relative merits of the various types of securities PacifiCorp could sell.

11. The issuance of an order authorizing the proposed financing does not constitute agency determination/approval of any issuance-related ratemaking issues which issues are expressly reserved until the appropriate proceeding.

CONCLUSIONS OF LAW

1. The proposed issuances to which the application relates will be for lawful objects within the corporate purposes of PacifiCorp. The method of financing is proper.

2. The application should be approved.

ORDER

IT IS THEREFORE ORDERED by the Commission that:

1. The application of PacifiCorp filed on July 18, 1994, for authority to issue, from time to time not later than December 31, 1995, shares of its fixed or floating-rate No Par Serial Preferred Stock with an aggregate preference on involuntary liquidation of not to exceed \$150,000,000, pursuant to §§ 69-3-501 through 69-3-507, MCA, and to use the proceeds as described in the application, is approved.

2. The application of PacifiCorp to, from time to time not later than December 31, 1995, (i) borrow not to exceed \$190,000,000 in the form of subordinated debt, (ii) guarantee obligations and (iii) assume liabilities, all in connection with the proposed issuance by a

special purpose subsidiary (including a corporation, partnership or limited liability company) of not to exceed \$150,000,000 of fixed or floating-rate preferred stock or its equivalent substantially as described in PacifiCorp's application, including the provision for distribution of an equal principal amount of such subordinated debt for the securities issued and sold by the special purpose subsidiary in certain circumstances, is hereby approved.

3. The application of PacifiCorp to issue and sell, from time to time not later than December 31, 1995, not to exceed \$150,000,000 of its fixed or floating rate subordinated debt, otherwise than to a special purpose subsidiary, is hereby approved.

4. PacifiCorp may exercise the separate authorities granted above or all such authorities provided that the aggregate preference on involuntary liquidation of any Preferred Stock issued by PacifiCorp and any preferred stock or its equivalent issued by a special purpose subsidiary and the aggregate principal amount of subordinated debt sold otherwise than to a special purpose subsidiary not exceed \$150,000,000.

5. The terms and conditions stated in Docket Nos. 93.6.21, 94.3.13 and 94.6.23 remain in full force and effect.

6. PacifiCorp shall file the following as they become available:

- a. The "Report of Securities Issued" required by 18 CFR 34.10.
- b. Verified copies of any agreement entered into in connection with any transaction pursuant to this Order.
- c. A verified statement setting forth in reasonable detail the disposition of the proceeds of each offering made pursuant to the order.

7. Issuance of this Order does not constitute acceptance of PacifiCorp's exhibits or other material accompanying the application for any purpose other than the issuance of this Order.

8. Approval of the transaction authorized shall not be construed as precedent to prejudice any future action of this Commission.

9. Section 69-3-507, MCA, provides that neither the issuance of securities by PacifiCorp pursuant to the provisions of this Order, nor any other act or deed done or performed in connection with the issuance, shall be construed to obligate the State of Montana to pay or guarantee in any manner whatsoever any security authorized, issued, assumed, or guaranteed.

10. This Order shall be effective upon execution.

DONE IN OPEN SESSION at Helena, Montana, this 8th day of August, 1994, by a 5 to 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ANDERSON, Chairman

BOB ROWE, Vice Chairman

DAVE FISHER, Commissioner

NANCY McCAFFREE, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.